



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 67] नई दिल्ली, शुक्रवार, दिसम्बर 9, 2005 / अग्रहायण 18, 1927
No. 67] NEW DELHI, FRIDAY, DECEMBER 9, 2005 / AGRAHAYANA 18, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 9th December, 2005:—

I

BILL NO. XIX OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

- | | |
|---|---------------------------------------|
| 1. (1) This Act may be called the Constitution (Amendment) Act, 2005. | Short title and
commence-
ment. |
| (2) It shall come into force with immediate effect. | |
| 2. In article 276 of the Constitution, in clause (2), for the words "two thousand and five hundred rupees", the words "ten thousand rupees" shall be substituted. | Amendment
of article 276. |

STATEMENT OF OBJECTS AND REASONS

At present there is a provision to levy professional tax by the States to mobilise its resources which should not exceed two thousand five hundred rupees per annum. The professional tax so levied is entitled for Income tax exemption and, therefore, the employees are not averse to pay higher rate of professional tax. States like Karnataka are finding it difficult to provide infrastructure facilities in big cities like Bangalore and Mysore where IT companies are agitating for better infrastructure facilities. Therefore, in order to facilitate the States to levy higher rate of professional tax, it is sought to amend the Constitution to make provision for the States to levy the professional tax not exceeding rupees ten thousand.

Hence this Bill.

K. B. KRISHNA MURTHY.

II

BILL NO. LXVII OF 2005

A Bill to provide for free and compulsory education to every girl child whose parents are living below poverty line.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

- | | |
|---|--|
| 1. (1) This Act may be called the Girls (Free and Compulsory Education) Act, 2005. | Short title,
extent
and com-
mencement. |
| (2) It extends to the whole of India. | |
| (3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint. | |
| 2. In this Act, unless the context otherwise requires,— | Definitions. |
| (a) "appropriate Government" means in the case of a State the State Government and in all other cases the Central Government; | |
| (b) "education" means education upto higher secondary level; | |
| (c) "girl" means a female who has not attained the age of eighteen years; | |
| (d) "person living below poverty line" means a person whose income from all sources is less than rupees three thousand per month; | |
| (e) "prescribed" means prescribed by rules made under this Act; and | |
| (f) "school" means an educational institution imparting education. | |

Free and compulsory education to girl child.

3. (1) The Appropriate Government shall provide free and compulsory education to every girl child whose parents are living below poverty line and are ordinarily residing in its territorial jurisdiction.

(2) The appropriate Government shall provide to every girl child born of parents living below poverty line, the following facilities:—

(i) free education upto higher secondary level;

(ii) free stationery items like books, note-books, writing material;

(iii) free school uniform;

(iv) free hostel facility and meal during school time; and

(v) stipend at the rate of one hundred rupees upto primary level, two hundred rupees upto middle level and five hundred rupees per month upto higher secondary level.

Appropriate Government to establish and maintain schools.

4. The appropriate Government shall establish and maintain or cause to be established or maintained such primary, middle or higher secondary schools within its territorial jurisdiction as the appropriate Government may deem necessary for the purpose of carrying out the provisions of this Act.

Responsibility of parents.

5. It shall be the responsibility of every parent to get his girl child admitted to a school for receiving education and the parent shall not in any manner restrain the girl child from attending the school till she completes her education.

No employment which prevents girl child from attending school.

6. No person shall employ a girl child in such a job which prevents her from attending school for receiving education.

Penalty.

7. Any person including a parent, who for any reason prevents, restrains or otherwise obstructs a girl child from receiving education in a school, shall be liable to simple imprisonment which may extend to one year.

Power to make rules.

8. The Central Government may by notification in the Official Gazette make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The ability to read and write is an essential element of human capability. Literacy is the first step towards acquiring tools of learning and opening the doors for knowledge and information. Education expands opportunity for girls, empowers them to resist oppression and to claim their right.

In our country, girls belong to weaker and vulnerable section of the society. Although many steps have been taken to improve their condition, yet nothing concrete has been done. Even today, girls are not treated equally and are subject to discrimination by their parents. They are kept away from school and are forced to assist their mothers in household affairs and are deprived of childhood joys.

It is the appropriate time to take stock of the situation and to ensure that girls belonging to poor families are given free and compulsory education. They should also be provided with facilities like free stationery items, free uniform, writing materials, hostel facilities, etc. to encourage them to get education. This will not only help in eradication of illiteracy from the country but will also help the girls to grow and compete with their male counterparts.

Hence this Bill.

T. SUBBARAMI REDDY.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free and compulsory education and other facilities to every girl child whose parents are living below poverty line by the appropriate government. Clause 4 provides for establishment of schools by appropriate government. The Central Government will bear the expenditure incurred in respect of Union territories and the State Governments will bear the expenditure incurred in respect of their States out of their respective consolidated funds.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five thousand crore per annum is likely to be involved.

A non-recurring expenditure of about rupees eight hundred crore is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made will relate to matters of detail only, the delegation of legislative power is of a normal character.

III

BILL NO. LXXIII OF 2005

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2005.

Amendment
of article 124.

2. In article 124 of the Constitution, after clause (7), the following clause shall be inserted, namely:—

“(8) No person who has held office as Judge of the Supreme Court shall be eligible for any further office either under the Government of India or under the Government of any State including the Chairmanship or Membership of any Inquiry Commission appointed by the respective Government after he has ceased to hold such office.”

Amendment
of article 217.

3. In article 217 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

“(4) No person who has held office as Judge of the High Court shall be eligible for any further office either under the Government of India or under the Government of any State including the Chairmanship or Membership of any Inquiry Commission appointed by the respective Governments after he has ceased to hold such office.”

STATEMENT OF OBJECTS AND REASONS

The Judges of the Supreme Court and High Courts are high dignitaries. In the recent past, it has been seen that Judges are offered lucrative posts after their retirement. In order to maintain dignity of the post, it is proposed to provide that Judges shall not hold any post under the Government after their retirement and they may not be considered for Chairmanship or Membership of any Inquiry Committee or Commission set up by the respective Governments, State or Centre.

Hence this Bill.

T. SUBBARAMI REDDY.

IV

BILL NO. XC OF 2005

A Bill to provide for the care, rehabilitation and welfare measures to be undertaken by the Central and State Governments for the destitute persons living uncared for due to infirmity caused by old age, chronic diseases, disability or mental imbalance or retardation and who remain hand to mouth and live below the poverty line and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Destitute and Poor (Rehabilitation and Welfare) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "Board" means the National Destitute and Poor Rehabilitation and Welfare Board established under Section 4;

(c) "destitute person" means any person,—

(i) who lives uncared for, stricken with infirmity due to old age, physical disability, diseases, mental disorder or cerebral palsy or mental retardation; or

(ii) who lives on pavement, footpath or such public place not meant for residence and lives on charity of others; or

(iii) who maintains himself on begging or charity of others not by way of natural affection; or

(iv) who satisfies other conditions for being declared a destitute as may be prescribed.

(d) "family" includes parents, spouse, children, unmarried daughters and sisters and dependent brothers;

(e) "poor" means a person whose daily earnings on an average do not exceed,—

(i) if living alone ten rupees;

(ii) if living with unearning spouse twenty rupees;

(iii) if living with family, per head income of the family members is less than seven rupees.

(f) "prescribed" means prescribed by rules made under this Act.

3. The Central Government shall, as soon as may be, formulate a National Policy for the welfare, care, maintenance and rehabilitation of the destitute and poorest of the poor people of the country.

National Policy
for the destitute
and poor.

4. (1) With effect from such date, as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established a Board to be called the National Destitute and Poor Rehabilitation and Welfare Board.

Establishment
of the National
Destitute and
Poor.
Rehabilitation
and Welfare
Board.

(2) The Board shall be a body Corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable and to contract, and shall by the said name sue and be sued.

(3) The headquarters of the Board shall be at Bhopal in the State of Madhya Pradesh and the Board may, with the previous approval of the Central Government, establish offices at other places in the country as it may deem necessary for carrying out the purposes of this Act.

(4) The Board shall consist of the following members, namely:—

(a) Prime Minister, who shall be the *ex-officio* Chairperson;

(b) a Deputy-Chairperson to be appointed by the Central Government;

(c) five members of Parliament of whom three shall be from Lok Sabha and two from the Rajya Sabha to be elected by the members of the respective Houses;

(d) eight members to be appointed by the Central Government to represent the following organisation, Ministries or Departments of the Central Government,—

(i) Planning Commission;

(ii) Social Justice and Empowerment;

(iii) Finance;

(iv) Rural Development;

(v) Small Scale, Agro and Rural Industries;

(vi) Human Resource Development;

(vii) Law and Justice; and

(viii) Labour and Employment;

(e) not more than five members to be appointed by the Central Government in consultation with the Government of the States by rotation in alphabetical order to represent the States.

(5) The Board shall have a Secretariat with such officers and employees with such conditions of service as the Central Government may determine from time to time for the efficient functioning of the Board.

(6) The Board shall follow such procedure in conducting its meetings and taking decisions therein as may be prescribed.

Functions of
the Board.

5. (1) It shall be the duty of the Board to promote by such measures as it thinks fit the rehabilitation and welfare measures for the destitute and the poor and implement the long-term national policy formulated under section 3.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for, —

- (a) provision for supply of wheat, rice and other essential commodities including clothes, etc. at subsidised rates to the poor;
- (b) prohibition of begging or residing on footpaths and in public places;
- (c) subsistence allowance to be given to the infirm destitutes;
- (d) other rehabilitation and welfare measures for the destitute and poor.

Establishment
of shelters
called
Aashiana.

6. The appropriate Government shall establish and run such number of shelters to be called *Aashiana* in its territorial jurisdiction as it may deem necessary for the purposes of this Act.

Removal of
destitute to
Aashianas.

7. Notwithstanding anything contained in any other law for the time being in force all infirm and destitute found begging or residing on footpath or in public place, as the case may be, shall be removed and shifted to the nearest *Aashiana*.

Facilities at
the *Aashianas*.

8. In the *Aashiana* the destitute shall be provided free of cost necessities of life, such as—

- (a) food, clothing, lodging;
- (b) medical care and treatment;
- (c) such education, literal or vocal, as may seem suitable;
- (d) suitable vocational training; and
- (e) such other facilities as may be prescribed.

Rehabilitation
centres.

9. It shall be the duty of the appropriate Government to set up and run rehabilitation centres in order to rehabilitate the destitute and the poor through proper and adequate training in some trade or vocation and extend all help in cash and kind for this purpose.

Central
Government to
provide funds.

10. The Central Government shall provide from time to time, after due appropriation made by Parliament by law, adequate funds for carrying out the purposes of this Act.

Act to have
overriding
effect.

11. The provisions of this Act and of any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the destitute and poor citizens.

Power to make
rules.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In the metropolitans and urban areas, people stricken with infirmity, deformation, disability or suffering from leprosy can be seen begging at public places, religious places or intersections of the roads, etc. Their number is in millions. Many of them are born on the footpath, grow on footpath and die there sometimes unnoticed and unsung. People become destitute because they are stricken with infirmity due to old age, physical disability, diseases, mental disorder or mental retardation. Many a time old people are thrown out without means of livelihood and they become destitute. Similarly people have to leave their villages due to various reasons and they come to cities where they end up on the pavements and other public places. These destitute and poor are neglected by the society and they live uncared for and subsist mainly on begging. Society owes much to itself for according humane treatment to these destitute and poor. If proper rehabilitation programmes are prepared and implemented and a chance is given to be in the mainstream of the society to these hapless people who are victims of circumstances they too can become respectable and responsible members of the society. The uplift of these people will go a long way in giving them some soothing touch and will help in rehabilitating them. Steps like vocational training, a helping hand, a little sympathy coupled with opportunities will go a long way in rehabilitating them in life. This can be done only when they are housed in protective environment where they can live, get something to eat and wear, followed by vocational training and a helping hand to enable them to start their venture or vocation to settle in life. For this a long-term policy is required and there should be a Board to implement such policy in letter and spirit.

Hence this Bill.

MAYA SINGH.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of the National Destitute and Poor Rehabilitation and Welfare Board. Clause 6 provides for the establishment of shelters called *Aashiana* and clause 8 provides for the facilities to be provided at the *Aashianas*. Clause 10 provides that the Central Government shall provide adequate funds for the purposes of this Bill. This Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand five hundred crore may involve as recurring expenditure per annum.

A sum of rupees two thousand crore may also involve as non-recurring expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill gives power to the Central Government to make rules for carrying out the purpose of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

V

BILL NO. LXXXIX OF 2005

A Bill to provide for thirty-three per cent reservation in posts and appointments in public employment of the State for women and for matters connected therewith.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Public Employment (Reservation for Women) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State the Government of that State and in other cases the Central Government;

(b) “prescribed” means prescribed by rules made under this Act;

(c) “public employment” means employment in connection with the affairs of the Central or any State Government and includes employment in any Public Sector Undertaking, Banks, Universities and educational institutions, local Self Government bodies, autonomous bodies or any authority under the appropriate Government.

3. (1) Notwithstanding anything contained in any other law for the time being in force or in any decree or judgment of a Court of law, there shall be reserved thirty three per cent of all appointments and posts in public employment for the women.

Reservation
for women in
public
employment.

(2) The appropriate Government shall make provisions for relaxation of eligibility conditions, qualifying marks in any examination for public employment or lowering the standard of evaluation consistently with the maintenance of administrative efficiency, as may be prescribed in case of appointment of women in public employment.

4. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

Women constitute nearly one half of our population but majority of them are educationally backward, dependent on their family members, superstitious and a suppressed lot. Most of them have become prone to various kinds of exploitations and are confined to the four-walls of their families. Their representation in public employment is negligible because most of them are so deeply engrossed in family affairs and burdened with such heavy domestic responsibilities that despite their education, aptitude and calibre they are unable to enter into public employment. Great efforts have been made to ameliorate the sufferings of women after the independence but, unfortunately, they continue to remain socially and economically weak. Therefore, they deserve special consideration for public employment.

There is job reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes in public employment but no such reservation exclusively exists for women thus they are denied social justice. To enable women to enjoy the fruits of social justice it would only be proper that reservation in public employment is also extended to women as in the case of other weaker sections of the society so as to ensure their due representation in Government services in the Country.

Hence this Bill.

MAYA SINGH.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VI

BILL NO. XCIV OF 2005

A Bill to provide for the eradication of homelessness amongst citizens by making housing a fundamental right to enable the citizens to get dwelling units from the Government at reasonable price and with facilities like potable water, electricity, sewerage, garage and parking space, road, park and other facilities for them and their family members and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Eradication of Homelessness Among Citizens Act, 2005.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State the Government of that State and in other cases the Central Government;

(b) “facility” includes provision of electricity, drinking water, sewerage, garage, parking space, road, park, community centre, shopping place, library, school, healthcare centres and such other facilities as may be prescribed;

(c) “family” means an adult citizen, his spouse and dependent children;

(d) “housing agency” means an agency responsible for acquiring and developing land, constructing dwelling units with facilities and allotting of such dwelling units generally called Development Authority, Housing Board, Trust or by whatever name called;

(e) “housing scheme” means the housing scheme formulated under section 5;

(f) “prescribed” means prescribed by rules made under this Act;

Right to housing and facilities.

3. (1) Notwithstanding anything contained in any other law for the time being in force, every citizen not having a dwelling unit owned by him or his family members, shall have the right to housing to have an appropriate dwelling unit for him and his family from the State.

(2) It shall be the duty of the appropriate Government to make available to every citizen not having a dwelling unit and who desires to have one, on an application made, unit of appropriate size or type for him and his family at reasonable and affordable price through the Housing Agency in such manner as may be prescribed.

Appropriate Government to provide facilities.

4. It shall be the duty of the appropriate Government to provide appropriate facilities in and around the dwelling units of the citizens in order to make a good living therein.

Formulation of Housing Scheme.

5. (1) For the purposes of this Act the appropriate Government shall formulate from time to time housing scheme containing such details and requirements keeping in view the overall requirement of dwelling units within its territorial jurisdiction, as may be prescribed.

(2) Notwithstanding anything in sub-clause (1) the appropriate Government may formulate Special Housing Schemes for senior citizens, physically challenged ones, citizens belonging to SC, ST, OBC and other weaker sections of the society.

(3) The appropriate Government shall implement the housing scheme through the housing agencies in such manner as may be prescribed.

Central Government to provide funds.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide necessary and adequate funds for carrying out the purposes of this Act.

Act to have overriding effect.

7. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with housing.

Power to make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There is severe shortage of houses or dwelling units in our country. Millions of people are not having roof over their heads and homelessness is increasing rapidly. In the cities millions of people spend their lives on footpaths, parks and other open space. Millions of other live in slums and *Jhuggi Jhopri* clusters in inhuman conditions without basic civic amenities and full of garbage, filth and dangerous diseases. The Central and State Governments have set up Housing Boards or Authorities to provide houses to the people but they are not able to meet the target as their liability to provide houses has not been fixed. If right to dwelling units is made a fundamental right of the citizens, it will have the desired effects as the State can be compelled to provide houses to the citizens and it will compel the Housing Boards and Authorities to move in the right direction.

Since right to housing has been recognized in all international covenants to which our country is a ratifying State, the Central and State Governments are legally bound to make houses available to the citizens. Our Supreme Court has also recognized this right.

Hence this Bill.

KRIPAL PARMAR.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides that the Central Government shall provide necessary funds for carrying out the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crores may involve as recurring expenditure per annum.

Non recurring expenditure to the tune of one thousand crore rupees may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VII

BILL NO. XCII OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

(2) It shall come into force with immediate effect.

Insertion of
new article
45A.

2. After article 45 of the Constitution, the following article shall be inserted, namely:—

Complete
freedom of
childhood.

"45A. The State shall endeavour to secure for children,—

(a) the complete freedom of childhood with right to play and enjoy childhood until they complete the age of five years by ensuring that they are not admitted in any school till that age;

(b) after they complete the age of five years the right to quality education and ensuring that they do not get much homework which may curtail their playing time and they do not have to carry heavy load of school bags in their tender age;

- (c) access to the play grounds, children parks and playing in the streets and parks of their colonies and areas;
- (d) access to comprehensive healthcare;
- (e) creche facilities in case parents are employed;
- (f) access to learning arts, fine arts, computers and other hobbies;
- (g) nutritious meals during school hours free of cost;
- (h) freedom from being employed in any factory or establishment or from being exploited by forcing into begging, stealing, pick pocketing and such other activities or from being sexually exploited; and
- (i) such other provisions as the State may deem necessary for the overall development of the children."

STATEMENT OF OBJECTS AND REASONS

Children of today are the future citizens of the nation, but in the present age of modernization, advancement and fierce competition the children have lost their childhood. They cannot enjoy their childhood any more in a carefree atmosphere through playing and running after the butterflies, teasing, playing in the dust and making fun of everything and enjoying. They have to prepare themselves for competition so as to get admission in schools of repute right from the tender age of two plus when they join a preparatory school and start doing home work. At the age of three or four, if the child is fortunate to get admission in a school, regular schooling starts with heavy load of school bags. In fact, there is no time for the children to lay and enjoy their childhood. It is also equally true that majority of the children are not able to get good education and the unfortunate ones cannot afford even the basic education due to poverty. Millions of such hapless children do not have access to schools. They are forced to work in the households, shops, *dhabas*, sweetmeat shops or earn their living by doing jobs like beedi rolling, manufacture of carpets or crackers and so on. They have to work for hours together. Many of them collect waste papers, plastic material, metal scraps from the streets and dustbins and sell the collection for survival. They are compelled to do all this due to circumstances, as they are orphans or forced by their poor or sometimes addicted parents to work for additional income. Majority of the children do not get nutritious diet and are anaemic and sick. It is an irony that at the school going age they have to become ragpickers, beggars, domestic servants, waiters or workers at the various establishments or do the jobs like carpet weaving and beedi rolling or assist in manufacturing, crackers etc.

In a democratic and welfare State like ours the children should be given every right and opportunity to enjoy their childhood and grow up as responsible citizens through learning and develop their potentials. They should get good and quality education and the weight of their school bags be reduced and they should not be given much home work so that they get enough time to play and enjoy their childhood. It should be their right to get nutritious meals and medical care. Every effort should be made to enable the children to enjoy their basic rights.

Hence this Bill.

KRIPAL PARMAR.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the children access to play grounds, children parks, comprehensive healthcare, creche facilities, nutritious meals, etc. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores may involve as recurring expenditure per annum.

Non-recurring expenditure to the tune of five hundred crore rupees may also involve from the Consolidated Fund of India.

VIII

BILL NO. XCV OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

Short title and
commencement.

(2) It shall come into force with immediate effect.

2. After article 21 of the Constitution, following article shall be inserted, namely:—

Insertion of
new article
21B.

"21B. (1) Every citizen and his family living below the poverty line so determined by the Planning Commission from time to time and living in the slums and *jhuggi jhopri* clusters shall have the right to:—

Right to
dwelling unit
of citizens
belonging to
below poverty
line living in
slums and
jhuggi jhopri
clusters.

(a) live in his own dwelling unit built by him either on his own land or on public land; and

(b) the minimum basic civic amenities like electricity, drinking water, sewerage, road connectivity, open park, garbage dumps, health services, schools, etc. from the State.

(2) No dwelling unit covered under clause (1) of this article shall be acquired or requisitioned by the state for any purpose except according to procedure established by law or demolished without providing a suitable alternative dwelling unit, if such unit was existing for than six months.

Explanation.— For the purposes of this article—

(a) "below poverty line" means where the total income of a citizen or a family is less than rupees one thousand five hundred per month or as determined by the Planning Commission from time to time.

(b) "dwelling unit" includes a *jhuggi jhopri* or house built on any area whether authorised or unauthorised."

STATEMENT OF OBJECTS AND REASONS

Slums and *jhuggi jhopri* clusters exist side by side in most of the Metropolitans and urban areas of our country. They have mushroomed in a big way for one reason or the other. These are generally inhabited by the poor and those living below the poverty line. For many, these slums and JJ clusters are an eyesore and disease prone places whereas for others they have become part and parcel of city life as they provide cheap labour for household works and for other purposes and establishments. Such clusters come up either on Government land or in areas which are called unauthorised colonies where poor people invest their life time savings for roof over their heads.

It is also true that the slums and JJ clusters do not have even basic civic amenities like drinking water, electricity, sewerage, toilets, health facilities, open space and parks, roads, etc. As a result, these areas are disease prone, stinking with rotting garbage emanating bad odour creating nauseous atmosphere, in and around such areas as the people also attend their call of nature nearby, keep pigs, goats and other milch animals which further deteriorates the environment which is sufficient to make the inhabitants disease prone. These areas also become den of various criminal activities. Despite the shortcomings, crores of people live or languish in these slums and clusters.

Many a time in the name of beautification or development or removal of unauthorised occupation, the dwelling units or *jhuggis* are demolished by the authorities that too without providing alternative shelter to displaced persons. Recent drives of demolition of JJ clusters had led the Supreme Court to direct the Government to provide alternative sites to the displaced JJ residents. In order to prevent the deprivation of the poor and those living below poverty line of their dwelling units, it is necessary to make the setting up of the dwelling unit a fundamental right by inserting a new article in the Constitution.

Hence this Bill.

KRIPAL PARMAR.

FINANCIAL MEMORANDUM

Clause 2 of the Bill gives right to the citizens living in slums and JJ clusters and below poverty line to get basic civil amenities. It also provides that alternate site or accommodation shall be provided to citizens whose dwelling units are acquired or demolished. The Bill, if enacted and brought into force will involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to quantify the moneys that will be required. However, it may involved rupees one thousand crores per annum as recurring expenditure.

Non-recurring expenditure to the tune of one hundred crore rupees may also be involved from the Consolidated Fund of India.

IX

BILL NO. XCVI OF 2005

A Bill further to amend the Representation of the People Act, 1950.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 20
of Act 43 of
1950.

2. In the Representation of the People Act, 1950 in section 20, after sub-section (1A) the following sub-section shall be inserted, namely:—

“(1-AA) A person absenting himself from his place of ordinary residence owing to his employment abroad shall not by reason thereof cease to be ordinarily resident therein.”

STATEMENT OF OBJECTS AND REASONS

Non-resident Indians working abroad who are actually Indian citizens cannot exercise their franchise because of the stipulation in the Representation of the People Act, 1950, that they should be ordinarily resident in their permanent address. Since they are Indian citizens and holding valid passport, they should be able to exercise their franchise, if they are available in the country at the time of voting and produce the passport as evidence of identity. It is the constitutional obligation that they, being citizens, should be able to exercise their right of voting.

Hence this Bill.

P. J. KURIEN.

X

BILL NO. XCVIII OF 2005

A Bill to provide for the measures to be undertaken by the State for the protection and maintenance of neglected, abandoned and destitute widows by establishing a Welfare Board for such widows and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Widows (Protection and Maintenance) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “abandoned widow” means a widow who has been deserted or thrown out of the household by her relatives to fend for herself and who has no means to support her and her dependent children, if any;

(b) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(c) "Board" means the National Widows Welfare Board established under Section 3;

(d) "destitute widow" means a widow stricken with infirmity due to old age, physical disability, chronic ailment, mental imbalance or who is too poor having no source of income with or without dependent minor children;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "widow" means a woman whose husband has expired after her legal marriage.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Board to be called the National Widows Welfare Board for the purposes of this Act.

Establishment
of the National
Widows
Welfare Board.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued.

(3) The Head Office of the Board shall be situated at such place as may be decided by the Central Government and the Board may establish its branches in the States and Union Territories in such manner as may be prescribed.

(4) The Board shall consist of, —

(a) a chairperson *ex-officio* who shall be the Minister in charge of the Union Ministry of Social Justice and Empowerment;

(b) a vice-chairperson preferably a widow to be appointed by the Central Government;

(c) three members of Parliament of whom two shall be from Lok Sabha and one from the Rajya Sabha to be nominated by the respective presiding officers of each House;

(d) two members representing the Department of Women and Child Development of the Union Ministry of Human Resource Development to be appointed by the Central Government;

(e) not more than four members to be appointed by the Central Government in consultation with the Governments of States, by rotation in alphabetical order, to represent the Governments of the States; and

(f) three members to be appointed by the Central Government from amongst the Non Government Organizations working for the welfare of widows.

(5) The Board shall follow such procedure in discharge of its agenda and hold meetings in such manner as may be prescribed.

(6) The Board shall have a Secretariat with such number of officers and employees with such terms and conditions of service, as may be necessary for the efficient functioning of the Board as may be prescribed.

4. The Board shall have a Welfare Fund for the widows known as the Widows Welfare Fund to which shall be credited all receipts from the Central Government, State Governments other institutions, organizations, body corporate of public or private sector, and individual for the welfare and maintenance of the needy and destitute widows.

Welfare Fund.

5. (1) The Board shall promote and provide, by such measures as it thinks fit for the protection, maintenance and welfare of neglected, abandoned and destitute widows with or without dependent children.

Functions of
the Board.

(2) Without prejudice to the generality of the provisions of sub-section (1) the Board shall,—

- (a) maintain district-wise register of widows with such particulars and in such manner as may be prescribed;
- (b) collect and get verified the antecedents of every widow covered under this Act to assess her need for assistance in such manner as may be prescribed;
- (c) perform such other functions as may be assigned to it from time to time.

Facilities to be provided to the widows.

6. The Board shall provide to the needy and destitute widows, on an application prescribed for the purpose the following facilities, namely:—

- (a) Subsistence allowance of rupees two thousand per month in case the widow is infirm and destitute or is having one or more dependent children or rupees one thousand per month in case she has no dependent child;
- (b) residential accommodation free of cost wherever necessary;
- (c) free education including technical education to the dependent children of the widows;
- (d) gainful employment;
- (e) vocational training wherever required;
- (f) such other facilities as may be necessary and as may be prescribed:

Provided that if a widow covered under this Act gets gainful employment or remarries, the facilities provided to her under this Act shall stand withdrawn from the date such widow gets employment or remarries, as the case may be:

Provided further that a widow residing with her in-laws or parents according to custom or due to other circumstances shall not be denied the facilities under this Act on this ground.

Miscellaneous provisions.

7. Notwithstanding anything contained in any other law for the time being in force or in any custom, a widow,—

- (i) shall not be evicted or thrown out of the House of the in-laws or parents, as the case may be, where such widow was residing at the time of death of her husband;
- (ii) shall be entitled to inherit the property or the share of her late husband in case of joint ownership of the property from her in-laws; and
- (iii) shall be entitled for maintenance from the heir or in-laws who abandon a widow at religious place like Mathura, Vrindavan, etc. for *bhajan* chanting for subsistence.

Central Government to provide requisite funds.

8. The Central Government shall, after due appropriation made by Parliament in this behalf by law, provide adequate requisite funds for carrying out the purposes of this Act.

Act to have overriding effect.

9. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the widows.

Power to make rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In our country there are millions of unfortunate women who lose their husbands, many a time untimely, and become widows and their number is nearly three per cent of our population. Very large number of widows particularly from the lower and middle income groups of our society become destitute after the death of their husbands. More than fifty per cent of these widows are old without any means to support themselves. Their position becomes more miserable if they have dependent children to support and bring up. They work as housemaids and take up other jobs for survival. It is very common in our society that when a widow does not have a source of livelihood or permanent source of income they are driven out of their in-laws homes or even from their parental homes. Sometimes condition of such widows becomes so miserable due to poverty and other compelling reasons that they are exploited to the extent possible and their life is made disgraceful. Many old widows suffering from infirmity due to old age, disability or ailment can be seen begging in the streets and public places. Many young widows are not only sexually exploited by their known ones but also forced into prostitution. Due to superstition at many places, they are treated as bad omen and are kept away from auspicious functions of the households.

Ours is a welfare State, therefore, the State is duty bound to initiate welfare measures and protect and provide maintenance to the hapless widows so that they too live honourably in the society. For this purpose and autonomous Welfare Board should be established to exclusively look after the welfare of needy widows.

Hence this Bill.

SUSHMA SWARAJ.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the National Widows Welfare Board. Clause 4 provides for the Welfare Fund. Clause 6 provides for facilities to widows. Clause 8 provides that Central Government shall provide adequate requisite funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure of rupees two hundred crore may also involve.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XI

BILL NO. XCVII OF 2005

A Bill to provide for the compulsory basic school level education for the girl child free of cost in order to eradicate their illiteracy and for deterrent punishment for those who prevent the girl child from going to school and pursuing her studies in any manner and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Girl Child (Compulsory Basic Education) Act, 2005.
- (2) It extends to the whole of India.
- (3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "basic education" means education in a school up to senior secondary level or twelfth standard or class;

(c) "girl child" means any female human being who is below the age of eighteen years;

(d) "parent" in relation to a girl child include her father and mother, guardian and every person who has the actual custody of the girl child for the time being;

(e) "prescribed" means prescribed by rules made under this Act.

3. (1) Notwithstanding any custom, usage or belief of any section of the society, every parent shall compulsorily admit his girl child in a school, on completion of five years of age in order to enable her to get basic education and shall not restrain her in any manner from attending the school.

Parents to compulsorily admit the girl child in school for basic education.

(2) whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

4. For the purposes of section 3 no parent or person shall engage a girl child in any household chore or employ a girl child in a manner which may prevent the girl child from attending her school and deprive her from basic education.

Prohibition of employing girl child hampering her school education.

5. (1) The appropriate Government shall provide free and compulsory education to every girl child who is ordinarily residing within its territorial jurisdiction.

Appropriate Government to provide free and compulsory education to girl child.

(2) For the purposes of sub-section (1) the appropriate Government shall establish such number of schools within its territorial jurisdiction as it may deem necessary and for the physically challenged girl child shall establish special schools at such place or places as the appropriate Government may deem necessary with such facilities as may be prescribed.

(3) If any girl child intends to pursue higher studies beyond the basic education stage, the appropriate Government shall provide free higher education to such girl child.

(4) The appropriate Government shall also provide training to the girl child in vocations like home science, doll making, tailoring, painting, knitting, weaving, food preservation, beautician, interior decoration, nursing, computer education, etc. for her development.

6. The Central Government shall, after due appropriation made by law by Parliament in this behalf, provide necessary funds, from time to time, for the purposes of this Act.

Central Government to provide necessary funds.

7. (1) If any parent of a girl child, for any reason whatsoever, does not admit, prevents, restrains or in any manner obstructs the girl child from receiving basic education, he shall be liable to simple imprisonment for a term which may extend to six months and also with a fine which may extend to twenty thousand rupees.

Penalty.

(2) Whoever employs a girl child resulting in obstructing her from attending the school for basic education shall be liable to imprisonment for a term which shall not be less than two years but may extend to five years and also with fine which may extend to one lakh rupees.

8. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the offences under this Act shall be cognizable.

Offences to be cognizable.

9. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law applicable to the girl child.

Act to have overriding effect.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

It is awesome and pitable that even in this age of scientific advancements, modernization and progress in all walks of life, the girl child is the most neglected and unwanted in the world and more so in our country. Most of the families do not want to have a daughter. The girl is killed in the womb of her mother itself if the female foetus is detected in the sex determination tests, which are conducted illegally on a very large scale throughout the country. The latest Census (2001) has revealed a stunning fact about the steep decline in male-female ratio in the country and more so in the northern and western states where the female ratio has declined to the dangerous levels. Further, the hapless girl child is consistently neglected in many homes. The condition of girl child in the orthodox families particularly in rural and tribal areas is the worst. While the boy gets the best of attention, the girl is generally neglected. Every family tries to send the boy to the best school but the girl is not sent for school education. Girls are denied even the basic schooling. They are forced to do the household chores and married off at a very tender age. In the cities the poor girls can be seen working as maids in households which, in fact, is their school going age. In the cities and Metropolitans many families give equal treatment to the girl child and in some rare cases the girl child is given more weightage and facilities, love and care but their percentage is negligible. Majority of girls remain illiterate and exploited throughout their lives. This leads to further illiteracy among the future generation of the girl child and this vicious cycle goes on.

Hence it has become necessary to take some drastic steps by making basic education compulsory and mandatory so as to remove illiteracy amongst the girl child. If the girl child becomes literate she will not allow her children later to remain illiterate. This will eradicate illiteracy from the country. It is therefore, proposed in this Bill that the parents must send the girl child to school for basic education otherwise they should be punished. The Government too should open adequate number of schools for the girls and provide necessary facilities in such schools. This will have the desired results and illiteracy amongst the girl child will be eradicated very soon.

Hence this Bill.

SUSHMA SWARAJ.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for free and compulsory education to girl child by opening schools, special schools, etc. Clause 6 provides that Central Government shall provide necessary funds for the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crore may involve as recurring expenditure per year.

A sum of rupees five thousand crore may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the provisions of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XII

BILL NO. XCIX OF 2005

A Bill to provide for creation of employment opportunities by way of reservation and other means and for compulsory payment of unemployment allowance by the Central Government to the visually handicapped citizens and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Visually Handicapped Persons (Employment Opportunities and Miscellaneous Provisions) Act, 2005.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "employer" means any person who employs twenty or more persons to do any work in an establishment for remuneration;

(c) "establishment" means,—

(i) any officer; or

(ii) any place where any industry, trade, business or occupation is carried on;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "registration officer" means the officer who shall be responsible for the registration of visually handicapped persons for the purposes of this Act;

(f) "visually handicapped person" means any person who has total absence of sight or vision.

Act not to apply to certain employments.

3. The provisions of this Act shall not apply in relation to,—

(a) any employment in agriculture or horticulture;

(b) any employment in domestic or household service;

(c) any employment, the total duration of which is less than three months;

(d) any employment which carries remuneration of less than rupees two hundred per month.

Compulsory reservation of certain percentage of vacancies in employment by employers.

4. Notwithstanding anything contained in any other law for the time being in force from the date of commencement of this Act, every employer shall reserve not less than five percent of the vacancies occurring in any calendar year in any employment in his establishment to be filled in from amongst the visually handicapped persons registered under this Act.

Appointment of Registration officers.

5. The appropriate Government shall, by notification in the Official Gazette, appoint as many Registration Officers as it may deem necessary for the purpose of registration of visually handicapped persons and may also demarcate the area within which each such officer shall exercise jurisdiction.

Registration of visually handicapped persons.

6. (1) Every visually handicapped person possessing the prescribed qualifications or experience, as the case may be, shall get himself registered on an application made, in such form and containing such particulars, as may be prescribed, to the respective Registration Officers within whose jurisdiction he resides.

(2) On receipt of an application under sub-section (1), the Registration Officer may cause such enquiries, as it deem necessary, to be made and if he is satisfied that the applicant is a visually handicapped person and possesses the prescribed qualifications or experience, shall register his name in a register and issue to the applicant a certificate of registration in the prescribed form or an identity card, as the case may be.

(3) The Registration Officer shall maintain the Register in such form and in such manner as may be prescribed.

Employers to notify vacancies.

7. Notwithstanding anything contained in any other law for the time being in force, every employer shall, before filling up any reserved vacancy in his establishment shall notify that vacancy to the concerned Registration Officer within whose jurisdiction that establishment is situated.

Actions to be taken by the Registration Officer.

8. (1) As soon as may be, after the receipt of information about vacancies under section 7, the Registration Officer shall furnish a list of visually handicapped persons registered with it containing such particulars as may be prescribed to the employer notifying the vacancies who shall within the prescribed period fill up the requisite percentage of vacancies prescribed in Section 4 by appointing such of the visually handicapped persons as he considers suitable and shall inform in writing the fact of such appointment to the Registration Officer.

(2) If any dispute arises between the employer and the Registration officer as to the suitability of a visually handicapped person for appointment or as to whether such person is visually handicapped or not, such dispute shall be referred to the appropriate Government whose decision thereon shall be final.

9. (1) When a visually handicapped person has been appointed to fill up any vacancy in an establishment, the Registration Officer shall remove the name of such person from the register after a period of one year from the date of his appointment.

Removal of names from the Register.

(2) Where a visually handicapped person is discharged or removed after being appointed by the employer on just and genuine grounds, nothing in this Act shall preclude such person to get himself registered again with the Registration Officer in accordance with the provisions of this Act.

10. (1) Where in any year any vacancies in an establishment reserved under this Act can not be filled up either due to non availability of suitable visually handicapped candidates or for other genuine reasons, such vacancies shall be carried forward to the succeeding year and so on upto the end of the fourth year.

Vacancies to be carried forward.

(2) For the purposes of sub section (1), a visually handicapped person shall not be deemed to be unsuitable to fill up the vacancy unless a certificate in this behalf is obtained by the employer from the Registration Officer.

11. (1) Every employer shall maintain such records giving such particulars of the visually handicapped persons employed in his establishment in such manner as may be prescribed.

Employer to maintain records.

(2) The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorized in this behalf by general or special order by the appropriate Government.

12. Every visually handicapped person registered under this Act and who remains unemployed thereafter shall be entitled for unemployment allowance till such time he is given an employment and the Central Government shall give unemployment allowance of rupees one thousand per month to him in such manner as may be prescribed.

Payment of unemployment allowance.

13. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds for the purposes of this Act.

Central Government to provide funds.

14. If any employer contravenes the provisions of this Act, he shall be punishable with imprisonment for a term, which shall not be less than one year but may extend to three years and also with fine which may extend to one lakh rupees.

Penalty.

15. Where an offence under this Act has been committed by a Company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by Companies.

Provided that nothing contained in this section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

16. Where an offence under this Act has been committed by any department of the Central Government, the Secretary or the head of department by whatever name called of such department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by Government departments.

Provided that nothing contained in this section shall render the head of such department liable to any punishment under this Act, if he proves that the offence was committed without

his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Overriding
effect of the
Act.

17. The provisions of this Act and of any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to visually handicapped persons.

Power to
make rules.

18. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

As per National Survey on Blindness (2001—03) there are estimated 1.2 crore visually handicapped or blind persons in the country and the estimated prevalence of blindness is 0.91 per cent in males and 1.29 per cent in females. For these unfortunate visually handicapped persons darkness has become part of their lives. Shockingly their number is increasing despite the fact that a National Programme for Control of Blindness is under implementation in the country. The visually handicapped persons face all sorts of odds in their day to day life and more so the visually handicapped females. To provide education to the visually handicapped persons Governments are running Blind Schools and Training Centres to give them vocational training but number of such schools and Training Centres is awfully very short. But the worst comes when the visually handicapped despite acquiring educational qualifications and vocational training do not get employment and remain neglected in the society. Many of them are very talented and can deliver the goods but they are denied employment on one pretext or the other. In Government jobs one per cent vacancies are reserved for visually handicapped persons but even this small percentage is not fully filled up and there remains backlog of vacancies for one reason or the other whereas qualified visually handicapped persons are running from pillar to post to find employment leading to frustration and distress. Now they are agitating in streets and before Government offices. Hence in a Welfare State like ours adequate employment opportunities have to be provided to these unfortunate brothers and sisters of our society so that they too can lead a good life.

Hence this Bill.

SUSHMA SWARAJ.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the appointment of Registration Officers. Clause 12 provides for the payment of unemployment allowance to the visually handicapped persons. Clause 13 provides that Central Government shall provide adequate funds for the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores may involve as recurring expenditure per annum.

No non recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XIII

BILL NO. XCIII OF 2005

A Bill to provide for the protection of the rights and welfare measures to be initiated by the State for the ragpicking, vagabond street children involved in petty crimes and who subsist on collecting and selling of waste materials thrown in the garbage dumps by the households and others or who subsist on begging, immoral activities like flesh trade or petty crimes like stealing, pickpocketing, snatching, etc. and for their rehabilitation through education, training, vocational education and through other reforming means and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Street, Ragpicking and Vagabond Children (Protection of Rights, Rehabilitation and Welfare) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "abandoned child" means a child whose parents have abandoned the child in any circumstance;

(b) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(c) "child" means any person who is below the age of eighteen years;

(d) "commission" means National Commission for Street, Ragpicking and Vagabond children established under Section 4;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "ragpicking child" means a child who collects dumped waste papers, plastic and its goods, glass pieces, metal scraps and items and other waste materials from the dustbins, streets and other places and sells it for subsistence; and

(g) "vagabond child" means a child wandering aimlessly in the streets and other vicinities and does not go to school.

3. The Central Government shall, as soon as may be, formulate a National Policy for the Street, Ragpicking and Vagabond Children, in consultation with the Commission to secure to all such children all the rights of the child and for their rehabilitation and other welfare measures.

National Policy for Street, Ragpicking and Vagabond Children.

4. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish a Commission called the National Commission for Street, Ragpicking and Vagabond Children.

Establishment of National Commission for Street, Ragpicking and Vagabond Children.

(2) The Commission shall consist of the following, namely:—

(a) the Union Minister of Social Justice and Empowerment who shall be the ex-officio Chairperson of the Commission;

(b) the Secretary in the Union Ministry of Social Justice and Empowerment who shall be the ex-officio Secretary of the Commission;

(c) the Union Ministers of the Ministries of Health and Family Welfare, Labour, Finance and the Deputy Chairman of the Planning Commission and Chairperson of the Central Social Welfare Board shall be the ex-officio members of the Commission;

(d) three members of Parliament, two from the Lok Sabha and one from the Rajya Sabha, who shall be nominated by the Presiding officers of respective House for such period as may be prescribed; and

(e) five members to be appointed by the Central Government in the manner as may be prescribed.

(3) The Commission shall have such set up of Secretariat as may be prescribed.

5. The Commission shall perform the following functions, namely:—

Functions of the Commission.

(a) assist the Central Government in formulation of the policy as envisaged under Section 3 of this Act;

(b) maintain a districtwise register of all street, ragpicking and vagabond children in such manner and with such details, as may be prescribed;

(c) evolve and float health security, education including vocational education, training and development assurance schemes for such children;

(d) establish shelters for board and lodging of orphans and homeless street, ragpicking and vagabond children free of cost with such facilities as may be prescribed;

(e) give financial assistance to the family of any child covered under this Act who subsists on the earnings of such child;

(f) open sufficient number of schools and technical education institutes for such children and provide books, dress and other requirements free of cost;

(g) ensure withdrawal of such children from ragpicking, begging and clutches of organized beggars and criminal gangs through programmes and schemes of emancipation;

(h) ensure that children covered under this Act apprehended for loitering vagabond, committing petty or minor offences or for juvenile delinquency are not lodged in jails nor detained in lock-ups as under trials by way of expeditious summary trials in such cases; and

(i) such other functions as may be assigned to the Commission by the appropriate Government from time to time.

Establishment
of Street,
Ragpicking
and Vagabond
Children Deve-
lopment Fund.

6. The Central Government shall, by notification in the Official Gazette, establish a Street, Ragpicking and Vagabond Children Development Fund, moneys into which shall be given by the Central Government after due appropriation made by Parliament by Law from time to time for the implementation of the schemes promoted under this Act.

Act to have
overriding
effect.

7. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make
rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In the metropolitan and other urban areas of our country millions of street children living on the pavements, hutments and slums subsist on ragpicking, a hazardous activity, in which these hapless children, boys as well as girls, collect waste papers, plastic, metal scraps from the dustbins, roads and streets and then sell the collection to scrap dealers for few rupees. Many of them support their poor families for variety of reasons. Many of them are orphans or those run away from their houses for one reason or the other. These unfortunate children are vulnerable to various diseases as they work in stinking garbage dumps full of germs and contact diseases like Titanus, TB, Hepatitis, Cholera, Asthma, Gastroenteris and even Cancer and chronic skin diseases, but they have no other option but to subsist on this health hazardous job.

The atmosphere they live in and the circumstances compel many of them to engage in petty crimes like pickpocketing, stealing, snatching either of their own or being control by anti social elements. Many of them are sexually exploited and by the time they turn major they become hardened criminals. There are many street children who are talented but they remain illiterate. If given proper training they can become very good mechanics or even engineers or if given proper education can become scholars and doctors but their fate and luck disappears in the garbage and evil.

Ours is a welfare State in which all children must enjoy their childhood. They must grow in a right atmosphere and get all the facilities of life including good education and become responsible citizen. Hence the State should come forward with welfare measures for these hapless street children so that their future is shaped well and they prove as an asset for the nation.

Hence this Bill.

HEMA MALINI.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of National Commission for Street, Ragpicking and Vagabond Children. Clause 6 provides for the establishment of Street, Ragpicking and Vagabond Children Development Fund. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores may involve as recurring expenditure per annum.

A non recurring expenditure to the tune of rupees five hundred crores may also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XIV

BILL NO. XCI OF 2005

A Bill to provide for the protection of the film industry of the country from the onslaught of video piracy of films ruining the whole industry and denying States of their revenues losing entertainment tax, by way of prevention of video piracy and by providing deterrent punishment for the pirates and exhibitors and for promoting the industry by giving requisite incentives and concessions and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,
extent and
Commencement.

1. (1) This Act may be called the Film Industry (Protection and Promotion) Act, 2005.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means, in the case of a State the Government of that State and in other cases the Central Government;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "video piracy" means illegally and unauthorisedly copying or recording a film on a video tape, compact disc, microchip, etc. for the purpose of circulation or sale.

37 of 1952.
14 of 1957.
7 of 1995.

(2) Words and expressions used herein and not defined but defined in the Cinematograph Act, 1952, the Copyright Act, 1957, the Cable Television Network (Regulation) Act, 1995 shall have the meanings respectively assigned to them in those Acts.

3. It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the promotion and development of the film industry and take all such measures as it deems necessary or expedient for the protection of the film industry from the onslaught of video piracy and other detriments and to ensure the promotion and development of film industry by giving incentives and concessions necessary for such promotion and development.

Declaration as to expediency and powers of Central Government to take measures to protect and promote film industry.

4. (1) Notwithstanding anything contained in any other law for the time being in force the video piracy of films produced in any part of the Country is hereby prohibited.

Prohibition of video piracy of films.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

(3) The provisions of this Act shall also apply to the pirated video cassettes, compact Discs, microchips of any Indian Hindi or regional language film so pirated in any foreign country and smuggled into the country for sale, circulation or exhibitions.

7 of 1995.

5. (1) Notwithstanding anything contained in the Cable Television Network (Regulation) act, 1995 the exhibition or showing of a pirated film by any Cable Operator is hereby prohibited.

Cable Operators not to exhibit or show pirated film.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

6. (1) Notwithstanding anything contained in any other law for the time being in force no video dealer, shopkeeper or supplier, by whatever name called, shall circulate or make available to any member of the general public or household any pirated cassette, Compact Disc, etc. of a film for his personal viewing at home or elsewhere.

Dealers not to sell or circulate cassettes of pirated film for personal viewing.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

7. Whoever,—

Penalty.

(a) contravenes the provision of Section 4 shall be punishable with imprisonment for a term which shall not be less than seven years but may extend to ten years and also with fine which shall not be less than ten lakh rupees but may extend to twenty five lakh rupees.

(b) contravenes the provisions of Section 5 shall be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and also with a fine which shall not be less than four lakh rupees but may extend to seven lakh rupees.

(c) contravenes the provisions of section 6 shall be punishable with imprisonment which shall not be less than two years but may extend to five years and also with fine which shall not be less than three lakh rupees but may extend to five lakh rupees.

Offences by
Companies.

8. Where a person committing an offence under this Act is a company or other body corporate or an association of persons whether incorporated or not, every Director, Manager, Secretary, Agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.

Special Cells of
Local Police
to deal with
video piracy.

9. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall constitute such number of special cells of local Police as it may deem necessary to deal with the offences of video piracy of films within its territorial jurisdiction headed by a Police Officer not below the rank of Deputy Superintendent in such manner as may be prescribed.

(2) The appropriate Government shall prepare an Annual Report on the achievements of Special Cells constituted by it for the purposes of this Act and cause the Report to be laid before the Parliament or the Legislature of the State, as the case may be.

Offences to be
tried by Special
Courts.

10. (1) All the offences committed under this Act shall be tried by Special Courts or Fast Track Courts.

(2) The appropriate Government shall constitute such number of Special Courts as it may deem necessary for the purposes of this Act.

Offences under
this Act to be
cognizable and
compoundable.

11. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, 2 of 1974, every offence under this Act,—

(a) shall be cognizable and non-bailable; and

(b) may, with the permission of the Court, be compoundable.

Act to have
overriding
effect.

12. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act not to be
in derogation
of other laws.

13. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make
rules.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Films are one of the popular means of entertainment and our country produces the largest number of films in the world every year in Hindi and most of the regional languages and new films are released every Friday for showing in the Cinema Halls throughout the country. Our film industry provides employment and livelihood not only to the artistes, producers, and directors but also to the supporting artistes, junior artistes, technicians, stunt artistes, musicians, helpers and scores of other workers, suppliers, exhibitors and so on and so forth whose number runs into millions. Unfortunately, today the film industry is under the onslaught of video piracy which is ruining this entertainment industry each passing day. It takes years, lots of money, generally taken from financiers on a very high rate of interest, hard work of the director, producers, artistes and the entire film unit to complete the film but as soon as the film is released it is pirated and shown on cable television network the very same day. As a result the viewers do not turn up to see the film in cinema halls which causes huge losses to the distributors, producers and director. In this process the States also lose substantial entertainment tax running into crores of rupees. The apathy of the police to check such piracy results in continuance of piracy unabated. This has put a question mark on the very survival of our film industry. Hence, it has become necessary to take some tough steps to check the piracy and make the penalty more deterrent. To implement the provisions of this Bill it is suggested that Special Cells of local Police be set up exclusively to deal with video piracy. The offences should be cognizable, non-bailable and compoundable and Special Courts should be established to try the offences. This will certainly check the video piracy to a greater extent. The Bill has also entrusted the Central Government to promote the film industry by giving incentives and concessions in a big way.

Hence this Bill.

HEMA MALINI.

FINANCIAL MEMORANDUM

Clause 9 of the Bill provides for the creation of special cells of local Police to deal with Video piracy. Clause 10 provides for the trial of offences by Special Courts. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one hundred crores may involve as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees two hundred crores may also involve for creating the requisite infrastructure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to the matters of details only.

The delegation of legislative power is of normal character.

YOGENDRA NARAIN,
Secretary-General.

PUBLISHED BY THE SECRETARY-GENERAL, RAJYA SABHA, UNDER RULE 68 OF THE
RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE RAJYA SABHA.